

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

LUIS ENRIQUE MEJIA-CALDERON

PETITIONER

v.

CIVIL ACTION NO. 5:19-cv-42-DCB-MTP

SHAWN R. GILLIS

RESPONDENT

ORDER ADOPTING REPORT AND RECOMMENDATION

This matter is before the Court on Shawn R. Gillis and Core Civil Corporation's Motion [ECF No. 12] to Dismiss for Failure to State a Claim and Magistrate Judge Michael T. Parker's Report and Recommendation [ECF No. 13]. Petitioner had until November 7, 2019 to file an objection to the Magistrate Judge's Report and Recommendation. The copy of the Report and Recommendation that the Court mailed the Petitioner was returned as "refused." The Court entered a show cause order [ECF No. 15] directing the Petitioner to provide a current address to the Court by November 22, 2019. The Court filed a second show cause order [ECF No. 17] on November 27, 2019 for the Petitioner to provide a current address by December 9, 2019. As of the date of this Order, the Petitioner has not provided a current address and no objection to the Report and Recommendation has been filed.

Magistrate Judge Parker finds that the Motion to Dismiss should be denied as moot. The Court entered an Order on June 5, 2019 [ECF No. 7] recognizing this matter as a habeas corpus petition in which Shawn R. Gillis is the only proper Respondent.

The Order terminated Core Civic Corporation and the Federal Bureau of Prisons as parties. Shawn R. Gillis and Core Civic Corporation now move to dismiss Petitioner's 42 U.S.C.A § 1983 claims, of which there are none.

Magistrate Judge Parker finds that, as Core Civic Corporation is no longer a party to this action and the lawsuit has been determined to be a habeas corpus action - not a § 1983 or Bivens¹ action - the motion to dismiss is moot and unnecessary as it seeks to dismiss claims that are not before the Court. The Court finds that Magistrate Judge Parker's Report and Recommendation is well taken.

Accordingly,

IT IS HEREBY ORDERED AND ADJUDGED that the Report and Recommendation is ADOPTED as the findings of this Court. Therefore, the Defendants Motion to Dismiss is DENIED as moot.

SO ORDERED, this the 6th day of January, 2020.

/s David Bramlette
UNITED STATES DISTRICT JUDGE

¹ Bivens v. Six Unknown Fed. Narcotics Agents, 403 U.S. 388 (1999)